

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12250 of 2023

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Bachchi Devi W/o Late Jay Narayan Prasad Singh, Residing at Village-Ratanpur Bishunpur, P.S.-Muffasil, District-Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through the Collector, Begusarai.
2. The Collector, Begusarai.
3. The Sub-Divisional Magistrate, Begusarai.
4. Sanket Saurav S/o Sri Kaushlendra Kumar, resident of Village-Ratanpur Bishunpur, P.S.-Muffasil, District-Begusarai.
5. Arpana Kumari, W/o Sanket Saurav, resident of Village-Ratanpur Bishunpur, P.S.-Muffasil, District-Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Avinash Kumar, Adv Mr. Ajay Kumar Mehta, Adv
For the State	:	Mr. Sajid Salim Khan (Sc25) Mr. Nadim Seraj, GP5 Ms. Shalini, AC to GP5
For Res. No. 4 & 5	:	Mr. Apurv Harsh, Adv Ms. Aditi Sahay, Adv Mr. Raghuraj Pratap, Adv Mr. Pranshu Prakash, Adv

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

4 23-07-2025 Heard learned counsel appearing for the petitioner,

learned counsel appearing for respondent nos. 4 and 5 and

learned counsel appearing for respondent-State.

2. Learned counsel appearing for respondent nos. 4
and 5 submits that she does not have instruction on behalf of
respondent nos. 4 and 5 and, therefore, she is unable to
contribute to the adjudication of this case.

3. The present writ application has been filed by the



petitioner for issuance of appropriate writ for quashing/setting aside the order dated 03.04.2023 passed in Appeal No. 15/2022 by which the appeal preferred by the petitioner against the order dated 11.04.2022 passed by the Sub-Divisional Officer in Maintenance Case No. 07/2020-21 has been rejected on the sole ground that the authority does not have power to order for eviction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

4. Learned counsel appearing for the petitioner submits that the legal issue as to whether order for eviction can be passed under Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is no longer *res integra* because recently the Hon'ble Apex Court has made it very clear that this power exists under the said Act. Reliance in this regard is placed in the case of ***Rajeswar Prasad Roy Vs The State of Bihar & Ors*** passed by Hon'ble Apex Court which arises from SLP (Civil) No. 7675 of 2024 in which in paragraphs 10 and 11, the Hon'ble Apex Court has held as follows:

“10. As far as the authority of Tribunal under the Act to order eviction is concerned, this court in ***S Vanitha v Deputy Commissioner Bengaluru Urban Disincr & Ors***, specifically held that the Tribunal under the Act has the authority to order eviction to ensure the maintenance and



protection of the senior citizens. This case involved a similar challenge to the order of eviction by daughter-in-law. The relevant paragraph (Para 25) from the case is extracted below:

"25. The substance of subsection (2) of Section 23, as submitted by the second and third respondents, is that the Tribunal had the jurisdiction to pass an order directing the eviction of the appellant who is their daughter-in-law. According to the submission, the power to order eviction is implicit in the provision guaranteeing a "right to receive maintenance out of an estate" and the enforcement of that right. In supporting the submission, they have referred to the view which has been taken by several High Courts, indicating that the Tribunal may order the eviction of a child or a relative from the property of a senior citizen, where there has been a breach of the obligation to maintain the senior citizen. The Tribunal under the Senior Citizens Act, 2007 may have the authority to order an eviction, if it is necessary and expedient to ensure the maintenance and protection of the senior citizen or parent. Eviction,



in other words would be an incident of the enforcement of the right to maintenance and protection. However, this remedy can be granted only after adverting to the competing claims in the dispute. It is necessary to recapitulate that the situation in the present case is that the eviction was sought of the daughter-in-law i.e. the appellant. The land, where the house has been constructed, was originally purchased by the son of the applicants who are seeking eviction of their daughter-in-law. The son had purchased the property a few months before his marriage to the appellant. He had subsequently transferred the property by a registered sale deed to his father and the fact that it was for the same consideration after the lapse of several years is of significance. The father, in turn, executed a gift deed in favour of his spouse. The appellant has asserted that she had been living in the house, as her matrimonial residence, until the application was filed. Her spouse has (according to her) deserted her and their minor daughter and left them in the lurch. The electricity to the premises was



disconnected for non-payment of dues. Their daughter has sought admission to an engineering degree course however her father, fourth respondent has not provided any financial support. The transfers which took place cannot be viewed in isolation from the context of the ongoing matrimonial dispute which has taken place. The issue is whether the appellant as the daughter-in-law and the minor daughter could have been ousted in the above manner.

11. Furthermore, the counsels for Appellant have rightly pointed out Rule 21 (2) (i) of the Bihar Senior Citizens Rules, 2012 which specifically provides that it is the duty of the District Magistrate to ensure that the life and property of the senior citizens are protected and they are able to live with security and dignity. The present Appellant is 75 year old. It shall be a defeat of the purpose of the Act if Appellant is not granted the benefit of eviction against his son and daughter-in-law who have not only encroached his self-acquired property but also threatened him of false criminal complaints, abusing and creating hurdles in running of the Rest House and thereby causing mental and physical harassments to old parents.”

5. Confronted with the above decision of the Hon’ble



Apex Court, the respondents-State is unable to defend the impugned orders.

6. For the reasons as given above, this writ application is allowed and the impugned order dated 03.04.2023 passed in Appeal No. 15 of 2022 is set aside and the order dated 11.04.2022 passed by the Sub-Divisional Officer in Maintenance Case No. 07/2020-21 is also set aside, for the reason that under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the authority has the power to order for eviction as has been held by the Hon'ble Apex Court in the above quoted judgment. After setting aside these orders, the matter is remanded back to the Sub-Divisional Officer, Begusarai for deciding the matter afresh in light of the aforesaid law laid by the Hon'ble Supreme Court. It is expected that the Sub-Divisional Officer, Begusarai will decide the matter within three months from the date of production of a copy of this order.

7. With the aforesaid observation and direction, this writ application is allowed to the above extent. All pending interlocutory application(s), if any, shall also be deemed to have been disposed of.

(Alok Kumar Sinha, J)

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